

**PT 98-96**

**Tax Type: PROPERTY TAX**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>PULASKI CIVIC AND COMMUNITY</b>	)		
<b>FAIR BOARD</b>	)	<b>Docket #</b>	<b>95-77-15</b>
<b>Applicant</b>	)		
	)		
<b>v.</b>	)		
	)	<b>Parcel Index #</b>	<b>04-15-100-020</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

**Synopsis:**

The hearing in this matter was held on June 1, 1998, at 2309 West Main Street, Marion, Illinois, to determine whether or not Pulaski County Parcel Index No. 04-15-100-020 qualified for exemption from real estate taxation for the 1995 assessment year.

Mr. Robert Thurston, vice president of the Pulaski Civic and Community Fair Board (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

Ms. Mitzi Kuyper, clerk of the Pulaski County Board of Review was present and testified on behalf of the Board.

The issues in this matter include, first, whether the applicant is an agricultural society; secondly, whether the applicant owned this parcel during the 1995 assessment year; and lastly, whether the applicant used this parcel for agricultural or exempt purposes during the 1995

assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is an agricultural society. It is also determined that the applicant owned this parcel during the entire 1995 assessment year. Finally, it is determined that this parcel was not used for an exempt purpose during 1995.

It is therefore concluded that this parcel should remain on the tax rolls and be assessed to the applicant, the owner thereof, for the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1995 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On February 21, 1996, the Pulaski County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcel here in issue for the 1995 assessment year. (Dept. Ex. No. 2)

3. On November 27, 1996, the Department advised the applicant that it was denying the exemption of this parcel. (Dept. Ex. No. 3)

4. By a letter postmarked December 11, 1996, Mr. William Heilig, treasurer of the applicant, requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter, conducted on June 1, 1998, was held pursuant to that request.

6. The applicant acquired the parcel here in issue by a quitclaim deed dated July 12, 1993. (Dept. Ex. No. 2A)

7. The applicant was incorporated pursuant to the "General Not For Profit Corporation Act" of Illinois, on December 1, 1959, for the following purposes:

To engage in all necessary activities for the promotion and production of future Pulaski Civic & Community Fairs henceforth to be known as the County Fair of Pulaski County Illinois. (Appl. Ex. No. 1)

8. The Pulaski County fairgrounds consist of a total of 16.5 acres. The 16.5 acres includes the fair grounds which consists of 14.5 acres plus the two acres here in issue which are adjacent to the aforementioned 14.5 acres. (Tr. pp. 9 & 10)

9. The applicant had previously rented the two acres from the former owners for a number of years to provide parking for fair contestants. When the parcel became available in 1993, the applicant purchased it. (Tr. p. 10)

10. This parcel is a two-acre grassy parcel which does not contain any buildings. (Tr. p. 10, Dept. Ex. No. 2K)

11. This parcel was not used during 1995 at any time other than fair week, when it was used for parking by fair contestants. (Tr. p. 11)

12. During the fair, only contestants were allowed to park on this parcel. While these contestants each paid an entry fee to enter the event in which they participated, they were not charged a fee to park on the parcel here in issue. (Tr. pp. 11 & 12)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

35 **ILCS** 220/15-85 exempts certain property as follows:

All property used exclusively by societies for agricultural or horticultural purposes, and not used with a view to profit, is exempt.

Property of a fair association such as the applicant has been considered to be exempt as being used for agricultural and horticultural society purposes. Op. Att'y Gen. (Ill.) 58 (1949).

Parking lots may qualify for an exemption pursuant to 35 ILCS 200/15-125 which exempts certain property from taxation as follows:

**PARKING AREAS, NOT LEASED OR USED FOR PROFIT, WHEN USED AS A PART OF A USE FOR WHICH AN EXEMPTION IS PROVIDED BY THIS CODE AND OWNED BY ANY SCHOOL DISTRICT, NON-PROFIT HOSPITAL, SCHOOL, OR RELIGIOUS OR CHARITABLE INSTITUTION WHICH MEETS THE QUALIFICATIONS FOR EXEMPTION, ARE EXEMPT.**

Parking lots, pursuant to the foregoing provision, must meet three tests. First, they must not be leased or otherwise used for profit. Secondly, they must be used as a part of a use for which an exemption is provided by the Property Tax Code. Lastly, they must be owned by a school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption. I have previously found that this parcel was not leased or otherwise used for profit during the 1995 assessment year. The Code provides for an exemption for agricultural or horticultural societies. It has previously been determined that county fairs qualify as agricultural or horticultural societies. However, the list of classes of exempt organizations which must own a parking lot for it to be exempt does not include agricultural or horticultural societies. It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934).

Based on the foregoing, I conclude that the applicant has failed to establish that the 2 acre parking lot here in issue qualified for exemption during 1995.

I therefore recommend that Pulaski County Parcel Index No. 04-15-100-020 remain on the tax rolls for the 1995 assessment year and that said parcel be assessed to Pulaski Civic and Community Fair Board, the owner thereof.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
December 15, 1998